MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2016 / 2017

ULK2612 – LAW OF BANKING

(All Sections / Groups)

26 MAY 2017

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 4 Questions only.

3. Attempt **FOUR**. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copies of (i) Bills of Exchange Act 1949 of Malaysia; (ii) Financial Services Act 2013; (iii) Anti Money Laundering , Anti- Terrorism Financing and Proceeds of Unlawful Activities Act 2001; (iv) Contracts Act 1950

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided. Please **highlight** or **underline** all references to cases and statutes

QUESTION 1

Kena, a sole proprietor runs a furniture export business with dealings all over South East Asia, China and Australia. He has accounts with Friendly Bank Bhd.'s (FBB) branch at Ayer Keroh Melaka. He also regularly conducts business over the internet using Friendly Bank's online portal 'Friendly Bank Direct'. At about 4.30p.m. on 5 March 2017, he logged on to his online account to check his transactions and discovered that just 20 minutes earlier RM200,000 was transferred from his account at FBB, to Xerx Bank in Rumania without his approval. Kena immediately called FBB and notified them about the unauthorized transaction. The following morning it was confirmed that the money had been transferred to a Xerx Bank in Rumania. Kena requested FBB to instruct Xerx Bank in Rumania to freeze the account to prevent monies from being withdrawn. However, by the time the instruction from FBB was sent, it was discovered that RM50,000/- had already been withdrawn from the account of a Xerx Bank customer. Xerx Bank nevertheless froze the balance of RM150,000 in its customer's account as instructed.

Advise FBB and Xerx Bank on their legal liabilities if any towards Kena.

(Total: 25 marks)

QUESTION 2

The newlyweds, Bonnie and Clyde decided to open a joint current account at Green Bank Bhd (GBB). On the 11 October 2016, they opened a joint current account with the mandate "Either/or to sign and operate the account". Their joint current account had a credit balance of RM28,000 to enable them to pay the down payment for their apartment with a loan from Nice Creditor Sdn. Bhd. (Nice Creditor)

(a) What measures should GBB have taken before opening the joint current account?

(5 marks)

(b) Unknown to Clyde, Bonnie called GBB to enquire about the credit balance on their joint current account. Can GBB entertain her request?

(5 marks)

Continued ...

(c) On 20 October 2016, Clyde issued a cheque for RM18,000 for the outstanding wedding expenses and withdrew RM2,000 in cash to repair his car. Meanwhile the next day, Bonnie issued a cheque for RM11,000 as payment to Nice Creditor. The cheque for RM11,000 was dishonoured and marked 'returned to payee'. Nice Creditor demand cash payment and inform her that her credit facilities are revoked.

Advise Bonnie and GBB on their respective rights and liabilities.

(8 marks)

(d) Meanwhile, Nice Creditor obtained judgement for the sum of RM11,000 against Bonnie and serve a garnishee order on GBB.

Advice GBB on their legal duties with respect to the garnishee order.

(7 marks)

(Total: 25 marks)

QUESTION 3

(a) Critically discuss the statutory obligations of the bank when it comes to suspicious transactions.

(12 marks)

(b) A bank, has a duty of secrecy under the Financial Services Act 2013. Compare and contrast the bank's duty of secrecy under the Financial Services Act 2013 and Anti-Money Laundering, Anti-Terrorism Financing, and Proceeds of Unlawful Activities Act 2001.

(13 marks)

(Total: 25 marks)

Continued ...

Answer EITHER Question 4(a) OR Question 4 (b)

QUESTION 4 (a)

Home Renovations Sdn. Bhd. (HRSB) operated a current account with Careful Bank Bhd.'s (CBB) branch at Jalan Ayer Keroh, Melaka. On 12 March 2017, HRSB's office was broken into and burgled. The following morning Cindy the accounts clerk who was the first to come into the office, discovered the break in and three cheques that were kept in her drawer were missing. In the absence of the Manager, she immediately called CBB and reported the theft of three cheques, bearing numbers 4100138, 4100139, 4100140 (the said cheques) with instructions not to pay out on the said cheques. This was followed by a letter dated 14 March 2017 from the Manager. However all three cheques had been cleared before the receipt of the letter. Consequently HRSB sued CBB for wrongfully debiting its account and demands repayment on the stolen forged cheques in the total sum of RM 180,000.

Advise CBB on its liabilities if any.

(Total: 25 marks)

OR

QUESTION 4 (b)

On 5 March 2016, Green Contractors Sdn. Bhd. (GCSB) obtained various credit facilities from Green Bank Bhd. (GBB), jointly and severally guaranteed by its four directors, G1, G2, G3 and G4. The directors agreed to limit their individual liability to 10%, 20%, 30% and 40% respectively. The guarantee was described as a 'continuing guarantee'.

One of GCSB's suppliers claimed payment for the sum of RM150,000. As GCSB did not have the necessary funds, it requested GBB to pay under its credit facilities. GCSB's supplier was duly paid by GBB. GCSB undertook to repay GBB within 90 days. Meanwhile on 20 March 2017, G1 tendered a notice to GBB that he had resigned as a Director of GCSB and wished to determine and discontinue the guarantee. However, as GCSB was unable to repay the RM150,000 within the stipulated time, GBB sued GCSB and the four guarantors.

Advise G1 on his liabilities if any under the Guarantee Agreement.

(Total: 25 marks)

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